



Department of Corrections Administrative Directive #432.01 *Gender Identification, Care, and Custody*. Department of Corrections Administrative Rule #409 *Searches for the Purpose of Limiting the Introduction of Contraband into Correctional Facilities*.

## DEFINITIONS

**Pat-Search:** The use of the hands over the clothed body to determine if an individual possess a weapon or contraband (i.e. drugs).

**Strip-Search:** A visual inspection of a person after all clothing items have been removed and a physical search of all items that were on, or in the possession of, the person being searched.

## PROCEDURAL GUIDELINES

### 1. Correctional Facilities

- a. Any area in a correctional facility may be visually inspected or searched at any time. Staff may be assisted by trained dogs and/or electronic search devices.

### 2. Physical Searches of Person and Property & Drug Test Observations

- a. Inmate searches and drug testing observations will be conducted by staff members of the same birth-sex, except when exigent circumstances exist; such as no female staff is on shift, or in an emergent situation when the search of an inmate is imperative to the safety and security of an inmate, or to the operations of a facility.<sup>1</sup>
- b. Inmates who identify as transgendered or intersex will be pat searched by a staff member of the gender identified by the inmate on the *Gender of Preference Form*. Strip searches of inmates who identify as transgendered or intersex will be strip searched in accordance with DOC Administrative Directive #432.01 *Gender Identification, Care, and Custody*. In exigent circumstances, such as no female staff is on shift or in an emergent situation when the search of an inmate is imperative to the safety and security of an inmate, or to the operations of a facility, a staff member of any gender may conduct the search.
- c. Correctional officers conducting or observing a strip search shall be of the same gender as the inmate subjected to the search except when exigent circumstances are such that delay would jeopardize the safety of the inmate, the officers, or to the safety and security of the facility.
- d. In determining the gender of the Correctional Officer that will conduct the search this directive incorporates the processes outlined in DOC Administrative

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<sup>1</sup> Drug testing observations incorporates the definitions and characteristics identified in DOC Administrative Directive #409.04 *Offender Drug Testing*.

Directive 432.01 *Gender Identification, Care, and Custody.*

e. Pre-Arrestment Inmates:

- i. Department staff is authorized to conduct a pat search of an inmate at any time.
- ii. The inmate will not be required to remove any clothing during the pat search other than outerwear (i.e. coats, gloves, hats, footwear, etc.). Staff will require the inmate to remove all items from his or her pockets.
- iii. Strip searches shall be conducted as follows:
  - A. Persons arrested on felony charges shall be subjected to a complete strip search;
  - B. Persons arrested for misdemeanors may be strip searched only if there is reasonable suspicion to believe that the person is in possession of items that would constitute a safety or security threat to the inmate or the operations of the facility. If the admitting officer believes that reasonable suspicion exists, the Shift Supervisor shall be consulted. The Shift Supervisor shall decide if reasonable suspicion exists and, if so, may give permission for the strip search. The Shift Supervisor shall then file an incident report, describing the supporting facts lead to a decision to conduct a strip search.<sup>2</sup>
  - C. Persons detained pursuant to federal civil deportation proceedings shall be treated in the same manner as misdemeanants until an appearance has been made before a federal magistrate or judge.

f. Post-Arrestment Inmates:

- i. Department staff is authorized to conduct a pat search of an inmate at any time.
- ii. The inmate will not be required to remove any clothing during the pat search other than outerwear (i.e. coats, gloves, hats, footwear, etc.). Staff will also require the inmate to remove all items from his or her pockets.
- iii. Strip searches are authorized in any of the following situations:

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<sup>2</sup> The Shift Supervisor's incident report shall be made in accordance with DOC Administrative Directive #405 *Reporting Incidents*.

- 1 A. When an inmate has had a contact visit or has had contact with persons  
2 or areas outside the facility or with a person in a lower security level,  
3 e.g., inmate returns to a facility from furlough status or from court; or  
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5 B. When an inmate exhibits behavior that would reasonably lead one to  
6 believe that the inmate is concealing contraband, such as difficulty  
7 walking or sitting, dilated eyes, or assaultive behavior; or  
8  
9 C. Before an inmate changes housing areas.  
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11 D. On a random, unannounced basis.  
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14 iv. Physical contact with the inmate's body should be avoided.  
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16 v. Close or special observation or dry cell status may be authorized by the  
17 Superintendent or designee if s/he has a reasonable suspicion that an inmate has  
18 ingested contraband or has concealed contraband in a body cavity and the  
19 methods of search specified above are inadequate or likely to result in physical  
20 injury to the inmate. The inmate may remain under constant or special  
21 observations until s/he has voided the contraband or until sufficient time has  
22 elapsed to preclude the possibility that the inmate is concealing contraband. The  
23 length of close observation status will be determined on an individual basis by  
24 the Superintendent or Security and Operations Supervisor in consultation with  
25 qualified health personnel.  
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27 vi. The use of a fluoroscope, major instrument (including anoscope or vaginal  
28 speculum), or surgical intrusion is allowed only if authorized and conducted by  
29 a physician for medical reasons and the inmate consents.  
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31 g. Incapacitated Persons:  
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33 i. Incapacitated Persons lodged pursuant to 18 V.S.A. § 4808 may be subject to the  
34 following searches:  
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36 A. Department staff is authorized to conduct a pat search of an incapacitated  
37 person at any time.  
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39 B. The incapacitated person will not be required to remove any clothing  
40 during the pat search other than outerwear (i.e. gloves, hats, footwear, etc.).  
41 Staff will require the incapacitated person to remove all items from his or  
42 her pockets.  
43  
44 C. Strip searches of incapacitated persons are authorized if the search is  
45 imperative to the safety and security of an inmate, or to the operations of a  
46 facility. If the admitting officer believes that reasonable suspicion exists  
47 that the incap possesses contraband, the Shift Supervisor shall be notified.

1 The Shift Supervisor shall decide if reasonable suspicion exists and, if so,  
2 may give permission for the strip search. The Shift Supervisor shall then  
3 file an incident report to document the facts which support the decision to  
4 conduct a strip search.<sup>3</sup>  
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6 h. Persons Held by Civil Contempt Order:  
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- 8 i. Persons lodged by court order for civil contempt shall be treated for the purposes  
9 of this directive as pre-arraignment inmates, until they have had their first  
10 hearing upon which they will be treated as a post-arraignment inmate.  
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12 i. Visitors:  
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- 14 i. Visitors to correctional facilities may be subjected to search by trained dogs or  
15 may be required to submit to metal detection, or other electronic devices.  
16 Visitors shall not under any circumstances be subject to a strip search by  
17 Department of Corrections' staff. The personal property of visitors brought  
18 into a facility is subject to search at any time. Visitors may be required to  
19 empty packages at any time, at the request of staff.  
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21 j. All persons:  
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- 23 i. All employees, visitors, volunteers, contracted staff, and other persons  
24 entering a correctional facility may be subject to search of person and  
25 possessions at any time. If an employee uses a locker or other storage area at  
26 work, including a locking desk drawer or locking cabinet, the Department will  
27 either furnish the lock and keep a copy of the key or combination, or allow the  
28 employee to furnish a personal lock, but the employee must give the  
29 Department a copy of the key or the combination.  
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31 ii. Areas within the secure perimeter of a correctional facility may be searched at  
32 any time, with or without the employee being present.  
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34 iii. All employees of the Department are subject to search of person and  
35 possessions entering the secure area of a facility on a random basis or based on  
36 reasonable suspicion of possession of a prohibited item. No employee shall be  
37 physically forced to submit to a search by the Department. Any employee  
38 who refuses to submit to a search shall be denied entry to the secure perimeter  
39 of any correctional facility and may be subject to disciplinary action.<sup>4</sup>  
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<sup>3</sup> The Shift Supervisor's incident report shall be made in accordance with Administrative Directive #405 *Reporting Incidents*.

<sup>4</sup> DOC Administrative Rule #409 *Searches for the Purpose of Limiting the Introduction of Contraband into Correctional Facilities*.

- 1           iv.    Searches of all persons shall be conducted in a manner that protects their  
2                privacy, confidentiality, and personal dignity to the extent consistent with this  
3                policy.  
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- 5           v.    For all persons, reasonable suspicion requires specific, articulable facts, when  
6                taken together with rational inferences therefrom, would lead a reasonable  
7                person to believe that the person to be searched possesses a prohibited item.  
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- 9           k.    Furloughees and Supervised Community Sentence (SCS):  
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- 11           i.    The following applies to searches of the property, residences, and persons  
12                of inmates who are being supervised in the community on furlough or SCS:  
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- 14                A.   For furloughees and SCS offenders residing in housing that is not  
15                      owned or leased by the DOC, if there is a household member  
16                      agreement, the residence may be searched on a routine or random basis  
17                      if the household member who signed the agreement consents; if the  
18                      furloughee or SCS offender lives on his/her own, the residence may be  
19                      searched on a routine or random basis if the furloughee or SCS  
20                      offender consents; if there is reasonable suspicion to search a  
21                      residence, a corrections employee shall get consent from either a  
22                      signatory of the household member agreement, or from the furloughee  
23                      or SCS offender if s/he lives alone before conducting the search; the  
24                      personal property of the furloughee or SCS offender may be searched  
25                      if reasonable suspicion exists.  
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- 27                B.   If a household member, furloughee, or SCS offender refuses to  
28                      consent to a search, the offender may be found in violation of their  
29                      conditions of supervision, and lodged at a correctional facility  
30                      pending due process.  
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- 32                C.   For all offenders, the following factors may be considered in  
33                      establishing a reasonable suspicion for violating a condition of the  
34                      supervision<sup>5</sup>:  
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- 36                      1)    Observation of an offender's unusual behavior;  
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- 38                      2)    Suspicious or criminal activity of the people with whom the  
39                      furloughee or SCS offender is associating;  
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- 41                      3)    Recent reports from a credible informant of a furloughee's or  
42                      SCS offender's violation;  
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<sup>5</sup> Reasonable suspicion in the context of searches is reasonable suspicion that the offender possess an item prohibited by his conditions or that is evidence of a violation of a condition. The identified four factors may be considered in establishing whether or not reasonable suspicion exists.

4) The furlougher's or SCS offender's history of criminal behavior.

D. Department staff is authorized to conduct a pat search of a furlougher or SCS offender for weapons or other prohibited objects that may present if reasonable suspicion exists.

1) The offender will not be required to remove any clothing during the pat search other than outward (i.e. coats, gloves, hats, footwear, etc.). Staff will require the offender to remove all items from his or her pockets.

E. Strip searches of offenders in the community are not authorized.

I. Probationers/Parolees:

i. The following applies to searches of the property, residences, and persons of probationers/parolees who are under supervision in the community:

A. Searches of the personal property and residences of probationers and parolees may be conducted only when a court or the Parole Board has expressly created a search condition or when the offender consents to the search upon request. The search provided for by a condition may be conducted only if reasonable suspicion exists or if the condition specifically allows for a search without reasonable suspicion. Staff may be assisted by trained dogs under the control of the assigned dog handler and/or by electronic search devices.

B. Department staff is authorized to conduct a pat search of the probationer/parolee for weapons or other objects that may present a danger during a visit to the offender's residence or during transport.

1) The probationer/parolee will not be required to remove any clothing during the pat search other than outward (i.e. coats, gloves, hats, footwear, etc.). Staff will require the probationer/parolee to remove all items from his or her pockets.

C. Strip searches are not authorized.

D. Probationers/parolees who are arrested for violating the conditions of their probation/parole shall, upon lodging at a correctional facility, be treated like post-arraignment inmates for purposes of this directive.

1           m.     Law enforcement:

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- 3           i.     Law enforcement officers may not accompany corrections employees on searches
- 4                   of offenders' residences, property, or persons unless the officers' presence is
- 5                   necessary for the personal safety of the corrections employee, the offender
- 6                   consents, or the law enforcement officer has a search or arrest warrant or probable
- 7                   cause to search.
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9     **TRAINING**

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11    The Director of Human Resources Development has the responsibility and authority to

12    develop and deliver any necessary training associated with the implementation and adherence of

13    this directive.

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15    **QUALITY ASSURANCE**

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17    Work site managers will develop local procedures that comply with the requirements set forth in this

18    Directive.

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